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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,748	07/31/2003	Takeshi Tsubouchi	033528-006	9932

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3731

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,748

Applicant(s)

TSUBOUCHI, TAKESHI

Examiner

Michael G. Mendoza

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 16 September 2004 have been fully considered but they are not persuasive. The Applicant argues on pg. 8, 2<sup>nd</sup> full paragraph that Mussivand et al. does not teach a rigid outflow conduit. The Applicant draws his/her argument towards the embodiment of FIG. 2B, stating that the outflow conduit 210 comprises a flexible tube 215. In the previous rejection the examiner stated that the conduits are rigid, specifically pointing to col. 7, lines 56-65. In this section the paragraph states the section 100 and 200 are made of rigid components, preferably titanium. The embodiment in FIG. 1, and described in col. 7, lines 56-65 reads on the claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mussivand et al. 6290639.

4. Mussivand et al. teaches a conduit assembly for attachment to a mechanical circulatory device, the conduit assembly comprising: a conduit including a first curved 270 conduit and a second curved conduit 200; a first coupling for attaching a first end of the first curved conduit to the mechanical circulatory device (see fig.), the coupling

being movable between a rotatable position and a fixed position (see abstract, lines 11-14); a second coupling for attaching a second end of the first curved conduit to a first end of the second curved conduit (see fig.), the coupling being movable between a rotatable position and a fixed position (see abstract, lines 11-14), wherein the conduit is rigid (col. 7, lines 56-65); wherein the conduit is circular in cross-section; wherein the conduit is formed from titanium (col. 7, lines 56-65); wherein the first coupling comprises a first rotatable nut 280 movable between a rotatable position and a fixed position; wherein the first rotatable nut engages a correspondingly threaded inflow port on the mechanical circulatory device (col. 8, lines 26-41); wherein the second coupling comprises a second rotatable nut 260 being movable between a rotatable position and a fixed position; wherein the second rotatable nut engages the second end of the first curved conduit, the second end of the first curved conduit being correspondingly threaded (col. 8, lines 17-18 and lines 26-41); and wherein the circulatory device is a ventricular assist device 2; wherein the ventricular assist device is a left ventricular assist device (see fig.).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mussivand et al. in view of Goldenberg 5498043.

7. Mussivand et al. teaches the conduit assembly according to claim 8. It should be noted that Mussivand et al. fails to specifically teach wherein the second rotatable nut includes a lip, and wherein the first end of the second conduit includes a flange.

8. Goldenberg teaches a conduit assembly with a common rotatable nut 26 with a lip 28 and a flange 31 for rotatably retaining the nut on the conduit. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the lip and the flange of Goldenberg for allowing rotation of the nut while retaining the nut on the conduit. Furthermore, it is well known in the art of conduit connectors to use a nut with lip and a flange to hold the nut in place when connecting conduits, hoses, tubes, etc.

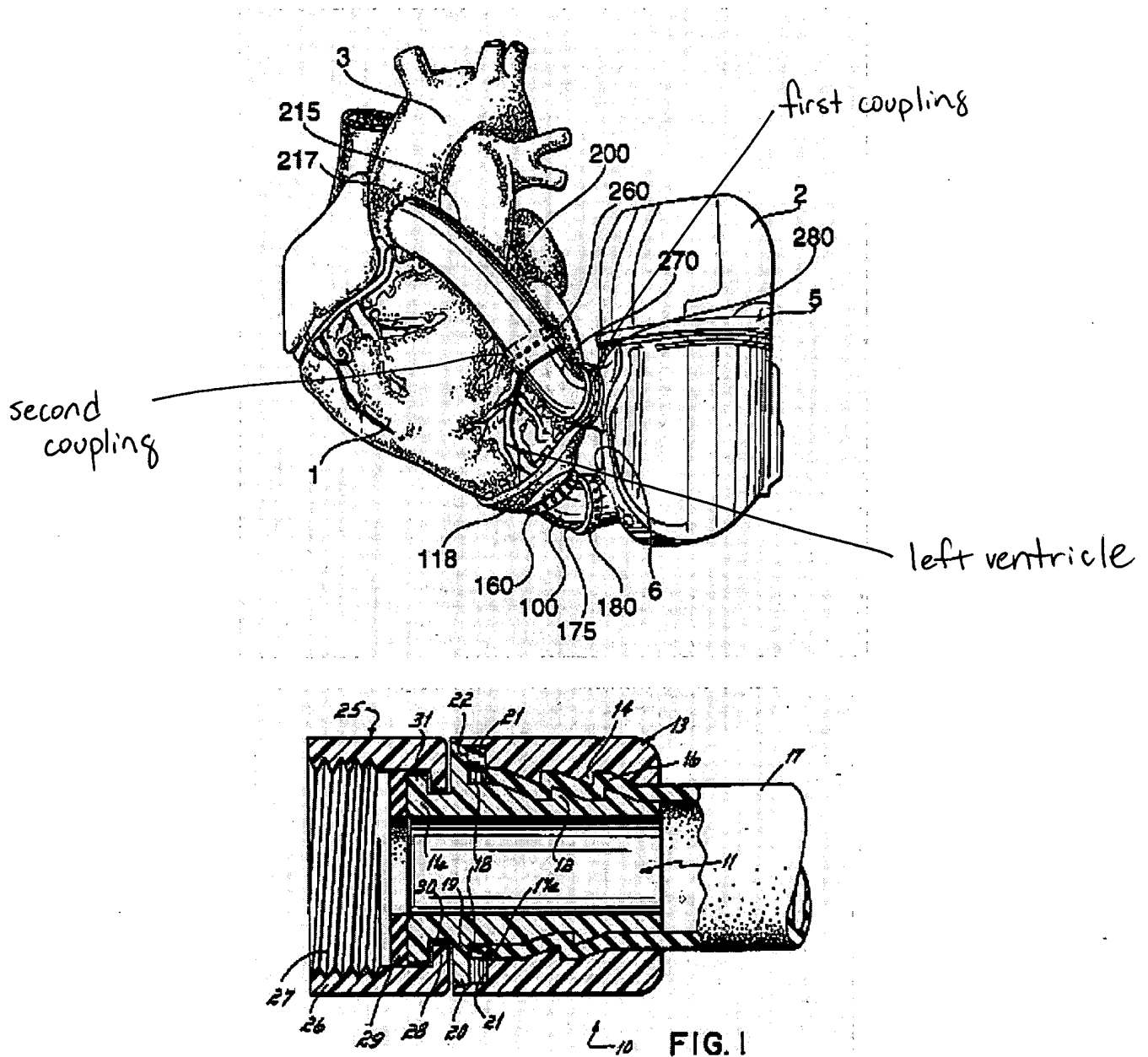
### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



**Contacts**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dawson can be reached on (571) 272-4694. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GLENN K. DAWSON  
PRIMARY EXAMINER